



AIRROC
matters

LEVERAGING LEGACY LIABILITY

**2017 Commutations
& Networking Forum**

IBT OR NOT TO BE? • SOMEBODY'S WATCHING • AIRROC & EECMA SHINE TOGETHER
PRECIOUS METALS • GETTING ARTSY IN JERSEY • HONORING JOHNSON • AWARDS FOR TWO

COMMUNITATIONS & NETWORKING FORUM



BRAVO to the AIRROC Education Committee!!

Attendees at AIRROC NJ 2017 were treated to a potpourri of topics. We heard about the deals and best practices for managing **UK Employers Liability Portfolios** and how the **Viking Pump** decision might impact policies and coverages. We looked to the employees of the future with the **Evolving Insurance Workforce** and how insurers can attract and retain new talent. We also learned how the **Robotics Process Automation** is changing the way the insurance industry operates. Finally, we participated in an interactive session where the audience casted votes on **What is Discoverable?** at a hearing or arbitration. All of this excellent programming was organized by our Education Committee.

Legacy U.K. Employers Liability

Summary by Robert D. Goodman

The first session of the Education Day was entitled “Legacy U.K. Employers Liability – Update and Outlook.” The panel consisted of: Richard Lawson, Global Head of Client Engagement at Pro Insurance Solutions Ltd; Ian Harvey, Head of Claims Strategy at Pro Insurance; and Joe Froehlich, Partner at Locke Lord, LLP. Richard Lawson provided an overview

of the U.K. Employers Liability market, which he noted was similar to but not the same as workers compensation in the U.S. This coverage has been compulsory since 1972. It has never been very profitable and it has been marked by considerable volatility. The strategic fit has been difficult for insurers, as the coverage has stood apart from core lines of business. Capital management has also been difficult, with both short-term and long-term capital needs. In recent years, books of legacy business have slowly been coming to market. Initially, there was a sizeable gap in the valuation between sellers and buyers. That gap has closed, but not all the way. Rather, sellers have been willing to take less in order to achieve finality. Currently, approximately \$6 billion has been sold, out of a total market value of approximately \$12 billion.

Ian Harvey noted that the difference between U.K. EL and U.S. workers compensation is that there is still a requirement to establish negligence. Asbestos claims account for the vast majority (80-90%) of portfolio values. This picture has been the same for 15 to 20 years. The mesothelioma incidence

in the U.K. is as high as anywhere in the world, with use of asbestos stretching into the late 1990s. It does not appear that claims have yet reached the top of the “bell curve.”

Joe Froehlich observed that, in the United States, asbestos claims have grown up outside of workers compensation; here, most claims are against manufacturers and distributors, not employers, and most coverage is provided under CGL policies. There may be a number of reasons why there has not been a decline in mesothelioma claims. One is the longer base-line life expectancy in the population. Due to the long latency period, asbestos-related mesothelioma typically develops in individuals in their 70’s or older. In prior decades, when life expectancy was shorter, many mesothelioma cases did not develop because individuals died of other causes. Another reason that there has not been a fall-off in claims is that plaintiffs’ lawyers have sought out new categories of claimants: wives allegedly exposed through household contact with asbestos dust, brake workers, welding-rod workers, etc. Finally, with the advent of the internet, information about mesothelioma and plaintiff’s law firms that prosecute such claims is very easily obtained.

Ian Harvey noted that one silver lining is immunotherapy and the availability of drug trials for treatments that may kickstart the immune system. Both Mr.

Page 26 (from left): Leah Spivey, Munich Re America; Richard Lawson, Pro Insurance Solutions; (panel left to right) Marcus Doran, Armour Risk; Joe Froehlich, Locke Lord LLP; Ian Harvey, Pro Insurance Solutions; Richard Lawson, Pro Insurance Solutions.



Make connections and explore new concepts



Harvey and Mr. Froehlich noted that it was hard to know what the impact of such treatments would be on damages. Another difference between the U.K. and the U.S. is that the U.K. does not employ a jury system. Mr. Froehlich pointed out that, in the U.S., workers compensation cases go to a board, not a jury, but that asbestos cases are primarily not brought in the workers compensation system. Mr. Harvey discussed the possibility that there would be a rise in asbestos-related lung cancer cases, observing that the epidemiology suggests that there are as many asbestos-related lung cancers as mesotheliomas, but that the numbers are suppressed by the much larger proportion of cases caused by smoking. Mr. Froehlich noted that in the U.S., while the established plaintiff's firms stick to mesothelioma cases, the new entrants are more likely to bring lung cancer cases.

Mr. Harvey also discussed a number of types of EL cases that may be on the rise, including idiopathic pulmonary fibrosis and noise-induced hearing loss. Mr. Froehlich mentioned a number of recent developments in the U.S. asbestos litigation, including the adoption of a new case management order in New York City, permitting punitive damages but restricting the ability of plaintiffs to consolidate cases.

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The Evolving Insurance Workforce: Planning for the Future to Sustain Our Legacy

Summary by Connie D. O'Mara

Ursula Merten (PwC) teamed up with Fred Gindraux (SVP of P&C Casualty Business, Swiss Re America), David McAndrews (Director of National Accounts, p1 Runoff), and Barbara Murray (PwC) to describe and analyze the talent and knowledge management challenges facing our business.

While the general unemployment rate in the U.S. is around 4.4%, the rate is only 2.31% in the insurance industry. Another salient feature of our workforce is that people are retiring later, so that the average age of our employees is going up and we have four generations working together. The average age of Insurance Agents is 59, while the average age of Underwriters is 56, and the average age of Claims Handlers is 54. Constant technology innovation means that our current workforce must continue to adapt to new ways of managing data while maintaining the brain trust of the past.

The panel opined that industry leadership needs to demonstrate a culture that values both historical knowledge and experience as well as the ability to mentor newer staff, while still nurturing an

innovative and challenging mindset for newer employees. Newer, tech-savvy staff can be used to “reverse mentor” those employees who need to adapt to evolving information management strategy.

What does the future look like? The “Sharing Economy” is projected to develop a “sharing” mindset as to staff and 20% of the work force will be contract employees by 2022. While the business tools may change over time, companies need to hire people who have “people skills” and can manage others, including customers, effectively, and who have a “growth” mindset so that they are open to new challenges, regardless of age.

Connie D. O'Mara, connie@cdomaraconsulting.com

What Is Discoverable? You be the Judge!

Summary by Robert D. Goodman

The third session was entitled “What is Discoverable? You be the Judge!” Don Frechette, Partner at Locke Lord LLP, moderated the panel consisting of: Christopher Bello, Vice-President, Senior Counsel, and Secretary of General

Page 27 (far right): David McAndrews, p1 Runoff; Ursula Merten, PwC; Fred Gindraux, Swiss Re; Barbara Murray, PwC.